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the CANADIAN **CHARTER OF RIGHTS & FREEDOMS**

Canada



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Canadian Charter of Rights and Freedoms

Rights and freedoms in Canada

Whereas Canada is founded upon principles that recognize the supremacy of God and the rule of law:

Guarantee of Rights and Freedoms

Fundamental freedoms

1. The *Canadian Charter of Rights and Freedoms* guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

Fundamental Freedoms

2. Everyone has the following fundamental freedoms:

- (a) freedom of conscience and religion;
- (b) freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication;
- (c) freedom of peaceful assembly; and
- (d) freedom of association.

Democratic Rights

Democratic rights of citizens

3. Every citizen of Canada has the right to vote in an election of members of the House of Commons or of a legislative assembly and to be qualified for membership therein.

Maximum duration of legislative bodies

4.(1) No House of Commons and no legislative assembly shall continue for longer than five years from the date fixed for the return of the writs at a general election of its members.

Continuation in special circumstances

(2) In time of real or apprehended war, invasion or insurrection, a House of Commons may be continued by Parliament and a legislative assembly may be continued by the legislature beyond five years if such continuation is not opposed by the votes of more than one-third of the members of the House of Commons or the legislative assembly, as the case may be.

Annual sitting of legislative bodies

5. There shall be a sitting of Parliament and of each legislature at least once every twelve months.

Mobility of citizens

6.(1) Every citizen of Canada has the right to enter, remain in and leave Canada.

Rights to move and gain livelihood

(2) Every citizen of Canada and every person who has the status of a permanent resident of Canada has the right

- (a) to move to and take up residence in any province; and
- (b) to pursue the gaining of a livelihood in any province.

Limitation

(3) The rights specified in subsection (2) are subject to

- (a) any laws or practices of general application in force in a province other than those that discriminate among persons primarily on the basis of province of present or previous residence; and
- (b) any laws providing for reasonable residency requirements as a qualification for the receipt of publicly provided social services.

Affirmative action programs

(4) Subsections (2) and (3) do not preclude any law, program or activity that has as its object the amelioration in a province of conditions of individuals in that province who are socially or economically disadvantaged if the rate of employment in that province is below the rate of employment in Canada.

Legal Rights

Life, liberty and security of person

7. Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.

Search or seizure

8. Everyone has the right to be secure against unreasonable search or seizure.

Detention or imprisonment

9. Everyone has the right not to be arbitrarily detained or imprisoned.

Arrest or detention

10. Everyone has the right on arrest or detention

- (a) to be informed promptly of the reasons therefor;
- (b) to retain and instruct counsel without delay and to be informed of that right; and
- (c) to have the validity of the detention determined by way of *habeas corpus* and to be released if the detention is not lawful.

Proceedings in criminal and penal matters

11. Any person charged with an offence has the right

- (a) to be informed without unreasonable delay of the specific offence;
- (b) to be tried within a reasonable time;
- (c) not to be compelled to be a witness in proceedings against that person in respect of the offence;
- (d) to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal;
- (e) not to be denied reasonable bail without just cause;
- (f) except in the case of an offence under military law tried before a military tribunal, to the benefit of trial by jury where the maximum punishment for the offence is imprisonment for five years or a more severe punishment;
- (g) not to be found guilty on account of any act or omission unless, at the time of the act or omission, it constituted an offence under Canadian or international law or was criminal according to the general principles of law recognized by the community of nations;
- (h) if finally acquitted of the offence, not to be tried for it again and, if finally found guilty and punished for the offence, not to be tried or punished for it again; and
- (i) if found guilty of the offence and if the punishment for the offence has been varied between the time of commission and the time of sentencing, to the benefit of the lesser punishment.

Treatment or punishment

12. Everyone has the right not to be subjected to any cruel and unusual treatment or punishment.

Self-incrimination

13. A witness who testifies in any proceedings has the right not to have an incriminating evidence so given used to incriminate that witness in any other proceedings, except in a prosecution for perjury or for the giving of contradictory evidence.

Interpreter

14. A party or witness in any proceedings who does not understand or speak the language in which the proceedings are conducted or who is deaf has the right to the assistance of an interpreter.

Equality Rights

Equality before and under law and equal protection and benefit of law

Affirmative action programs

Official languages of Canada

Official languages of New Brunswick

Advancement of status and use

Proceedings of Parliament

Proceedings of New Brunswick legislature

Parliamentary statutes and records

New Brunswick statutes and records

Proceedings in courts established by Parliament

Proceedings in New Brunswick courts

Communications by public with federal institutions

Communications by public with New Brunswick institutions

15. (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

(2) Subsection (1) does not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

Official languages of Canada

16. (1) English and French are the official languages of Canada and have equality of status and equal rights and privileges as to their use in all institutions of the Parliament and government of Canada.

(2) English and French are the official languages of New Brunswick and have equality of status and equal rights and privileges as to their use in all institutions of the legislature and government of New Brunswick.

(3) Nothing in this Charter limits the authority of Parliament or a legislature to advance the equality of status or use of English and French.

17. (1) Everyone has the right to use English or French in any debates and other proceedings of Parliament.

(2) Everyone has the right to use English or French in any debates and other proceedings of the legislature of New Brunswick.

18. (1) The statutes, records and journals of Parliament shall be printed and published in English and French and both language versions are equally authoritative.

(2) The statutes, records and journals of the legislature of New Brunswick shall be printed and published in English and French and both language versions are equally authoritative.

19. (1) Either English or French may be used by any person in, or in any pleading in or process issuing from, any court established by Parliament.

(2) Either English or French may be used by any person in, or in any pleading in or process issuing from, any court of New Brunswick.

20. (1) Any member of the public in Canada has the right to communicate with, and to receive available services from, any head or central office of an institution of the Parliament or government of Canada in English or French, and has the same right with respect to any other office of any such institution where

(a) there is a significant demand for communications with and services from that office in such language; or
(b) due to the nature of the office, it is reasonable that communications with and services from that office be available in both English and French.

(2) Any member of the public in New Brunswick has the right to communicate with, and to receive available services from, any office of an institution of the legislature or government of New Brunswick in English or French.

Continuation of existing constitutional provisions

Rights and privileges preserved

Language of instruction

Continuity of language instruction

Application where numbers warrant

Enforcement of guaranteed rights and freedoms

Exclusion of evidence bringing administration of justice into disrepute

21. Nothing in sections 16 to 20 abrogates or derogates from any right, privilege or obligation with respect to the English and French languages, or either of them, that exists or is continued by virtue of any other provision of the Constitution of Canada.

22. Nothing in sections 16 to 20 abrogates or derogates from any legal or customary right or privilege acquired or enjoyed either before or after the coming into force of this Charter with respect to any language that is not English or French.

Minority Language Educational Rights

23. (1) Citizens of Canada

(a) whose first language learned and still understood is that of the English or French linguistic minority population of the province in which they reside, or
(b) who have received their primary school instruction in Canada in English or French and reside in a province where the language in which they received that instruction is the language of the English or French linguistic minority population of the province,

have the right to have their children receive primary and secondary school instruction in that language in that province.

(2) Citizens of Canada of whom any child has received or is receiving primary or secondary school instruction in English or French in Canada, have the right to have all their children receive primary and secondary school instruction in the same language.

(3) The right of citizens of Canada under subsections (1) and (2) to have their children receive primary and secondary school instruction in the language of the English or French linguistic minority population of a province.

(a) applies wherever in the province the number of children of citizens who have such a right is sufficient to warrant the provision to them out of public funds of minority language instruction; and

(b) includes, where the number of those children so warrants, the right to have them receive that instruction in minority language educational facilities provided out of public funds.

Enforcement

24. (1) Anyone whose rights or freedoms, as guaranteed by this Charter, have been infringed or denied may apply to a court of competent jurisdiction to obtain such remedy as the court considers appropriate and just in the circumstances.

(2) Where, in proceedings under subsection (1), a court concludes that evidence was obtained in a manner that infringed or denied any rights or freedoms guaranteed by this Charter, the evidence shall be excluded if it is established that, having regard to all the circumstances, the admission of it in the proceedings would bring the administration of justice into disrepute.

General

25. The guarantee in this Charter of certain rights and freedoms shall not be construed so as to abrogate or derogate from any aboriginal, treaty or other rights or freedoms that pertain to the aboriginal peoples of Canada including

(a) any rights or freedoms that have been recognized by the Royal Proclamation of October 7, 1763; and

	(b) any rights or freedoms that now exist by way of land claims agreements or may be so acquired.	<i>Citation</i>
Other rights and freedoms not affected by Charter	26. The guarantee in this Charter of certain rights and freedoms shall not be construed as denying the existence of any other rights or freedoms that exist in Canada.	34. This Part may be cited as the <i>Canadian Charter of Rights and Freedoms</i> .
Multicultural heritage	27. This Charter shall be interpreted in a manner consistent with the preservation and enhancement of the multicultural heritage of Canadians.	
Rights guaranteed equally to both sexes	28. Notwithstanding anything in this Charter, the rights and freedoms referred to in it are guaranteed equally to male and female persons.	
Rights respecting certain schools preserved	29. Nothing in this Charter abrogates or derogates from any rights or privileges guaranteed by or under the Constitution of Canada in respect of denominational, separate or dissentient schools.	
Application to territories and territorial authorities	30. A reference in this Charter to a province or to the legislative assembly or legislature of a province shall be deemed to include a reference to the Yukon Territory and the Northwest Territories, or to the appropriate legislative authority thereof, as the case may be.	
Legislative powers not extended	31. Nothing in this Charter extends the legislative powers of any body or authority.	
<i>Application of Charter</i>		
Application of Charter	32. (1) This Charter applies (a) to the Parliament and government of Canada in respect of all matters within the authority of Parliament including all matters relating to the Yukon Territory and Northwest Territories; and (b) to the legislature and government of each province in respect of all matters within the authority of the legislature of each province. (2) Notwithstanding subsection (1), section 15 shall not have effect until three years after this section comes into force.	
Exception where express declaration	33. (1) Parliament or the legislature of a province may expressly declare in an Act of Parliament or of the legislature, as the case may be, that the Act or a provision thereof shall operate notwithstanding a provision included in section 2 or sections 7 to 15 of this Charter. (2) An Act or a provision of an Act in respect of which a declaration made under this section is in effect shall have such operation as it would have but for the provision of this Charter referred to in the declaration. (3) A declaration made under subsection (1) shall cease to have effect five years after it comes into force or on such earlier date as may be specified in the declaration. (4) Parliament or a legislature of a province may re-enact a declaration made under subsection (1). (5) Subsection (3) applies in respect of a re-enactment made under subsection (4).	
Five year limitation		
Re-enactment		
Five year limitation		

For further information, please contact:

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Pour plus d'information, veuillez vous adresser à la:

Titre

Durée de validité

Nouvelle adoption

Durée de validité

Validité de la dérogation

Exécution de la dérogation

Restriction

Application de la charte

Législative

Non-gouvernemental

Application aux territoires

Maintien des coutumes et coutumes écoutées

Egalité des genres pour les deux sexes

Maintien du patrimoine culturel

Maintien des autres droits pour les deux sexes

Maintien des libertés et libertés

Maintien des garanties

Maintien des compétences

Maintien des compétences

34. Titre de la présente partie : *Charter guarantee des droits et libertés.**

Titre

Durée de validité (5) Le paragraphe (3) s'applique à toute déclaration adoptée sous le régime du paragraphe (4).

(4) Le Parlement ou une législature peut adopter de nouveau une déclaration visée au paragraphe (1).

(3) La déclaration visée au paragraphe (1) cessé d'avoir effet à la date qu'il y est précisée ou, au plus tard, cinq ans après son entrée en vigueur.

(2) La loi ou la disposition qui fait l'objet d'une déclaration contrarie au présent article et en vigueur a l'effet qu'elle autorise tout la disposition en cause de la charge.

33. (1) Le Parlement ou la législature d'une province peut adopter une loi qui il est expressément déclaré que celle-ci dispose d'application donnée de l'article 2 ou des articles 7 à 15 de la présente charge.

(2) Par dérogation au paragraphe (1), l'article 15 n'a d'effet que trois ans après l'entrée en vigueur du présent pour tous les domaines relevant de cette législature.

(b) à la législature et au gouvernement de chaque province, tous domaines relevant du Yukon et les territoires du Nord-Ouest ;

a) au Parlement et au gouvernement du Canada, pour qui concernent le territoire du Yukon et les territoires du

32. (1) La présente charte s'applique :

Application de la charte

31. La présente charte n'élargit pas les compétences législative de quelque organisme ou autorité que ce soit.

30. Dans la présente charte, les dispositions qui visent les provinces, leur législature ou leur assemblée législative visent également le territoire du Yukon, les territoires du Nord-Ouest ou leurs autorités législatives compétentes.

29. Les dispositions de la présente charte ne portent pas atteinte aux droits ou priviléges qui y sont mentionnés soit Constitution du Canada concernant les écoles séparées et autres écoles confessionnelles.

28. L'indépendamment des autres dispositions de la présente charte, les droits et libertés garantis des deux sexes sont garantis également aux personnes des deux sexes.

27. Toute interprétation de la présente charte doit concorder avec l'objet de promouvoir le maintien et la valorisation du patrimoine multiculturel des Canadiens.

26. Le fait que la présente charte garantit certains droits et libertés constitue pas une négation des autres droits ou libertés qui existent au Canada.

Défense et libertés

Garantie des droits et liberte

Attendu que le Canada est fondé sur des principes qui reconnaissent la suprématie de Dieu et la primauté du droit ;

Libertés fondamentales

les droits et libertés qu'il soutient. Ils ne peuvent démontrer dans le cadre d'une société libre et démocratique certains raisonnables et doux la justification puisque certains que par une règle de droit, dans des limites très strictes et libres qu'il soutient. Ils ne peuvent démontrer dans le cadre d'une société libre et démocratique certains raisonnables et doux la justification puisque certains que par une règle de droit, dans des limites très strictes et libres qu'il soutient.

Droits démocratiques

4. (1) Le mandat maximal de la Chambre des communes et des assemblées législatives est de cinq ans à compter de la date fixée pour le retour des électeurs aux élections générales correspondantes.

Liberté de circulation et d'établissement

5. Le Parlement et les législatures lenneent une séance au moins une fois tous les douze mois.

Liberte de circulation et d'établissement

(2) Tout citoyen canadien et toute personne ayant le

residence dans toute province;

a) aux lois et usages d'application générale en vigueur
donnés :

b) aux lois prévoyant de justes conditions

d'intégrer, dans une province, la situation d'individus amélioré, programmes ou activités destinées à

Garanties juridiques

des emplois sociaux dans la province est inférieur à la moyenne nationale.

7. Chacun a droit à la vie, à la liberté et à la sécurité de sa personne; il ne peut être privé de ces droits qu'en conformité avec les principes de justice fondamentale.

L'emprisonnement arbitraires.

10. Chaque année le droit, en cas d'arrestation ou de détention :
a) d'être informé dans les plus brefs délais des motifs de son arrestation ou de sa détention ;
b) d'avoir recours sans délai à l'assistance d'un avocat et d'être informé de ce droit ;
c) de faire contrôler, par l'autorité compétente, la légalité de sa détention.

a) d'être inflormé sans délai normal de l'infraction

b) d'être jugé dans un délai raisonnable;

c) de ne pas être contraint de témoigner contre lui-même dans toute poursuite menée contre lui pour la même chose qu'en l'absence d'un décret impératif;

d) d'être pressumé innocent tant qu'il n'est pas déclaré coupable, conformément à la loi, par un tribunal compétent et impartial à l'issue d'un procès public ou équitable;

militaire, de bénéficier d'un procès avec jury lorsqu'il

(g) de ne pas être déclaré coupable en raison d'une action ou d'une omission qui, au moment où elle est survenue, ne constitue pas une infraction dans le droit international ; (h) d'autre part de droit canadien criminel, d'après les principes généraux de droit reconnus par l'ensemble des nations ; (i) d'autre part de droit canadien international, d'après les principes n'ayant pas de caractère criminel et

ou peines cruelles et inustices.

14. La partie ou le témoin qui ne peut être tenu de déclarer, soit parce qu'il n'a pas l'autorisation de faire une déclaration, soit parce qu'il n'a pas l'autorisation de faire une déclaration, soit parce qu'il n'a pas l'autorisation de faire une déclaration.

Garanties juridiques

des emplois sociaux dans la province est inférieur à la moyenne nationale.

Garanties juridiques

occupations sociétales ou économiques, si le taux d'emploi dans la province est inférieur à la moyenne nationale.

Garanties juridiques

des emplois sociaux dans la province est inférieur à la moyenne nationale.

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La CHARTE CANADIENNE DES DROITS ET LIBERTÉS

